INFORMATION LETTER

Not for Publication — NATIONAL CANNERS ASSOCIATION — For Members Only

No. 1435 | Washington, D. C. | May 2, 1953

Spring Meeting of Board, Administrative Council

Those desiring the N.C.A. to make hotel reservations for attendance at the meetings of the Board of Directors and Administrative Council, and who have not previously done so, are reminded to request reservations promptly. All reservations must be received by N.C.A. by May 11.

Reservations are held not later than 6 p.m. unless a later hour of arrival is specified.

It will be appreciated if those who plan to attend the meetings and have made or will make their own reservations will so notify the N.C.A.

Waste Disposal Facilities

Bills to encourage construction of industrial waste disposal facilities are scheduled to receive priority consideration by the House Committee on Ways and Means. The Committee reports that public hearings will be held this session of Congress on the pending bills dealing with water pollution. These are H. R. 234, introduced by Representative Byrnes (Wis.), and H. R. 606, introduced by Representative Simpson (Pa.). The Committee also will consider H. R. 2743, introduced by Representative Poulson (Calif.) dealing with atmospheric pollutants.

These bills would provide a tax incentive by allowing a taxpayer to amortize at his election the cost of works for the treatment of industrial wastes on a 60-month basis. The N.C.A. has requested an opportunity to testify at the hearings.

FDA Factory Inspection

Hearings scheduled by the House Committee on Interstate and Foreign Commerce on bills to reinstate factory inspection authority in the Food and Drug Administration have been postponed. No new date has been announced by the Committee, and it appears unlikely that the hearings will be held for another week or so.

Rep. Arends and Paul H. Good of U. S. Chamber of Commerce to Speak at Spring Meeting of Board

Representative Leslie C. Arends, Republican Whip of the House, and Paul H. Good, manager of the Education Department of the U. S. Chamber of Commerce, will be guest speakers for the meeting of the N.C.A. Board of Directors, May 22, at the Statler Hotel, Washington, D. C., it was announced this week by President Louis Ratzesberger, Jr.

Representative Arends will speak on the aims and policies of the new Administration as they affect food processing, and especially canning, and will report on Administration accomplishments to date and progress toward fulfillment of its business and economic program.

Mr. Good will discuss the efforts business and industry can and should make toward educating the public on the valuable contributions it makes to the public good, so as to develop a better understanding of business among employees and the general public.

Representative Arends is from Melvin, Ill., representing the 17th District there, which consists of seven counties about 150 miles southeast of Chicago. He is now serving his tenth consecutive term in Congress, and has been elected Republican Whip at each succeeding Congress since 1944. As Party Whip he acts as assistant floor leader on the Republican side of the aisle. Serving on the Republican Policy Committee he has an important voice in determination of party policy on measures coming before the House.

During the last Presidential election campaign Mr. Arends traveled

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Home Economics Division Advertisements

Accompanying this issue of the INFORMATION LETTER are copies of the three spring advertisements of the N.C.A. Home Economics Division, appearing in *What's New in Home Economics* and *Forecast for Home Economists* magazines. The magazines are read by home economics teachers and other home economists.

The three advertisements carry through a new theme—"the story behind modern canned foods." With a picture denoting horticultural research, the March advertisement says, "Here is profusely illustrated material on the subject—from planting to the table." In April the advertisement is entitled "A Harvest of Visual Teaching Aids" and carries the theme through the careful harvesting of foods for canning—"important for vitamin retention and quality." A scene of the N.C.A. Research Laboratory, shown in the May advertisement, tells the story that "research means high nutritive value, quality and uniformity in canned foods."

All three advertisements show the supplementary educational materials that can be ordered from the Home Economics Division and have descriptions of the materials.

The coupon requests resulting from the advertisements have been especially good. Although tabulations have not been completed for the three advertisements enclosed, the results for the first three months of the year show an increase. In 1952 a total of 300,310 pieces of material were sent out in response to coupons from advertising. For the same period this year 752,345 pieces of material were coupon requested.

Catsup Standard Conference

A meeting of catsup manufacturers interested in the proposed amendment to the standard of identity for tomato catsup was held at N.C.A. headquarters April 28.

Additional information on the subject was received, and is being formalized in a letter to be sent to the Food and Drug Administration.

NUTRITION

The Low Sodium Cook Book

To be published next week is a new book for doctors, dietitians, and users of dietetic foods, containing authoritative information on what foods are generally acceptable and how to use them in certain special diets.

Dietetic canned foods are among the foods recommended for use. Some of the data on proximate composition of dietetic foods were obtained in the N.C.A.-C.M.I. nutrition studies and have been published by N.C.A. in *Dietetic Canned Foods*.

Entitled *The Low Sodium Cook Book*, the new book will be released May 7 by Little, Brown and Company, Boston. Its authors are Alma Smith Payne and Dorothy Callahan.

In a general discussion of foods "to eat and not to eat," the authors point out that canned foods for persons on diets are available. The book states:

"Some permissible canned foods and other processed foods may now be found on your grocer's shelf. Unsalted canned tuna and salmon are available. . . . A few soups are available, but use only such brands as are approved by your physician for known sodium content. . . . Within the last year, low sodium meats have been put on the market, canned in 1-serving amounts and with sodium analysis printed on the label. . . . A selection of canned vegetables is now available, too."

The book consists largely of recipes. It also lists a limited number of brand names for low sodium foods and the packers' names and addresses.

PUBLICITY

Better Living Magazine

Listed on the front cover as one of the outstanding articles of the May *Better Living* magazine is "Quick off-the-shelf Dinners," featuring canned and packaged foods.

Beginning her article, Esther Kimmel, food and equipment editor, says: "Many new and truly wonderful-to-eat combinations can be made with canned and packaged foods—the kind that keep indefinitely. If you have the makings at hand for several hasty dinners, you'll be ready for many an unforeseen occasion."

The six main dish recipes given are pictured in color on the first two pages of the article. Along with each of the recipes the author suggests a menu. The canned foods used in the recipes and menus are cream of celery soup, green beans, white potatoes, corned beef, consomme, spaghetti in tomato sauce, corn, luncheon meat, Vienna sausages, tomato soup, egg noodles and tuna dinner, ripe olives, peas, frankfurters, lima beans, cream of mushroom soup, pimiento, dried beef, baked beans, chicken, and mixed vegetables.

What's New in Home Economics

What's New In Home Economics, a magazine distributed to approximately 40,000 home economics teachers, business home economists, government home economics leaders, extension workers, and others interested in the profession, carries an editorial article on canned foods in the April issue. The article is entitled "Canned Foods Today" and is written by Dorothy E. Shank, food and nutrition editor.

Miss Shank begins, "We have asked some of the home economists in the canning industry to act in an advisory capacity and help us to bring to you the most up-to-date information about canned foods." Those acting as her advisory panel are listed on the page: Elizabeth Heldt, American Can Company; Georgia W. Hess, Hazel-Atlas Glass Company; Eugenia Hoffert, Campbell Soup Company; Gladys Kimbrough, Ball Brothers Company; Patricia Murtaugh, Hawaiian Pineapple Company; Edna Mae McIntosh, Gerber Products Company; Lila M. Jones, H. J. Heinz Company; Mary Hale Martin, Libby McNeill & Libby; Katherine R. Smith, National Canners Association; Carolyn Flanders, C. A. Swanson & Sons; and Verna McCallum, Stokely-Van Camp, Inc.

"When all the advantages of canned foods are considered," says the author, "it is not astonishing to realize that over 500 million cases of food, including 350 products, are packed each year.

"With such a large percentage of our food supply coming in cans and jars, it is a good idea to review some of the information we already have and to learn about the new things as the information about them becomes available."

The discussion is based on consumers' questions asked most frequently of the advisory panel. These are requests for recipes and menu suggestions; inquiries about the food value of canned foods; effects of freezing; why cans are enamel-lined; and if it is safe to store food in open cans or jars. All of these points are thoroughly discussed and other information is given.

Miss Shank goes on to discuss some of the new canned products on the market, label information, and can and jar size information.

The article concludes by saying, "The canning industry is thus keeping up with consumer demands, constantly finding ways to improve its product, to process new foods and to make menu planning and meal preparation ever stimulating and challenging."

PERSONNEL

Owen Joins Richmond-Chase

John A. Owen has joined the Richmond-Chase Company as district manager of the Stockton, Calif., operations and will make his headquarters there, it is announced by E. N. Richmond, president.

Mr. Owen served as president of the Canners League of California in 1951. He was vice president of the Pratt-Low Preserving Co.

Tidewater Canners of Virginia

The Tidewater Canners Association of Virginia, Inc., elected the following officers recently at the association's annual meeting:

President—Russell C. Hammack, Hammack Packing Co., Emmerton; vice president—W. H. Sanford, Jr., Sanford Canning Co., Tucker Hill; secretary-treasurer—Robert A. Harris, Jr., Kinsale Canning Co., Kinsale (reelected).

New Association Members

The following firms have been admitted into membership in the N.C.A. since March 28, 1953:

HUNT FOODS, INC., 1747 W. Commonwealth Ave., Fullerton, Calif. *Officer*—F. R. Weisman, president.

IOWA CANNING CO., S. Main St., Gilman, Iowa. *Product*—Cream style corn. *Officer*—T. S. Weaver, manager.

LIN-ORO OLIVE GROWERS, P. O. Box 336, Lindsay, Calif. *Products*—Ripe and green ripe olives. *Officer*—Wendell B. Clark, manager.

KING CRAB INC., P. O. Box 1047, Kodiak, Alaska. *Product*—Crab meat. *Officer*—Robert E. Resoff, partner.

MENNER PACKING CORP., 190-200 Rutgers St., Maplewood, N. J. *Products*—Macaroni creole, Spanish rice dinners. *Officer*—Albert Menner, president.

TAKU FISHERIES, Box 2067, Juneau, Alaska. *Product*—Salmon.

STANDARDS

Grades for Catsup

The Production and Marketing Administration, USDA, has proposed revision of U. S. standards for grades of tomato catsup. The revision proposes the addition of an intermediate Grade B differing from Grade A principally in that a total solids content as low as 29 percent would be permitted in this grade. Total solids of Grade A and Grade C would remain at 33 percent and 25 percent, respectively.

Grades for Cream Style Corn

The Production and Marketing Administration, USDA, has proposed revision of U. S. standards for grades of canned cream style corn. The revision proposes tolerances for harmless extraneous vegetable matter in the Grade A and Grade B range and provides definitions and tolerances for damaged and seriously damaged kernels.

Grades for Canned Lima Beans

Notice is given in the *Federal Register* of April 18 that the Production and Marketing Administration, USDA, proposes to revise U. S. standards for grades of canned Lima beans.

Grades for Canned Apples

The Production and Marketing Administration, USDA, has proposed revision of the U. S. standards for grades of canned apples. The proposal is designed to clarify the standards with respect to color and size requirements and to provide a more objective means of classifying canned apples as to absence of defects.

Invitations for Bids

✪ QM Market Center System, 1819 West Pershing Road, Chicago 9, Ill.

Veterans Administration—Procurement Division, Veterans Administration, Wash. 25, D. C.

The Walsh-Healey Public Contracts Act will apply to all operations performed after the date of notice of award if the total value of a contract is $10,000 or over.

The Veterans Administration has invited sealed bids to furnish the following:

ASPARAGUS—7,500 dozen No. 10 cans of white or green asparagus, or equivalent in No. 2½ or No. 2 cans. Bids due under S-373 by May 19.

The QMC has invited sealed bids to furnish the following:

APPLE BUTTER—990 dozen No. 10 cans and 2,856 dozen 28-oz. jars. Bids due in Chicago under QM-11-009-53-54 by May 5.

FRUIT PRESERVES—14,926 dozen No. 10 cans. Bids due in Chicago under QM-11-009-53-75 by May 6.

FRUIT JELLIES—9,950 dozen No. 10 cans. Bids due in Chicago under QM-11-009-53-79 by May 6.

CHILI CON CARNE without beans—17,778 No. 10 cans. Bids due in Chicago under QM-11-009-53-62 by May 12.

STATISTICS

1952 Packs of Berries

Reports on the 1952 packs of canned blackberries, boysenberries, loganberries, black raspberries, red raspberries, and strawberries have been compiled by the N.C.A. Division of Statistics. Following are the 1952 pack totals, by regions, with comparisons with the previous year:

	Blackberries		Boysenberries*		Loganberries		Strawberries	
	1951	1952	1951	1952	1951	1952	1951	1952
	(actual cases)		(actual cases)		(actual cases)		(actual cases)	
Northwest	227,491	295,301	149,707	209,873	30,562	67,029	22,996	64,644
Other states	216,373	275,858	176,461	92,171	650	.....	61,365	85,056
U. S. Total	443,864	571,159	326,168	302,044	31,212	67,029	84,361	149,700

	Black Raspberries		Red Raspberries	
	1951	1952	1951	1952
	(actual cases)		(actual cases)	
New York	31,781	15,161	48,433	34,809
Michigan	270,162	210,649	59,250	61,114
Northwest	1,666	5,260	5,014	995
U. S. Total	303,609	231,070	112,697	96,918

* Includes a small amount of youngberries packed in the Northwest.

Per Capita Consumption

Preliminary indications of apparent civilian per capita consumption of major food commodities during 1953 were reported by the Bureau of Agricultural Economics in *The National Food Situation*. Following are preliminary indications for selected foods:

Commodity	1935–39 ave.	1952 Preliminary	1953 Indicated	Percent change from 1935–39
	(pounds)			
Canned vegetables	29.6	40.8	41.4	+40
Frozen vegetables	0.4	4.5	4.6	+1050
Fresh vegetables [1]	235.0	251.0	256.0	+9
Canned fruits	14.8	20.2	19.7	+33
Canned fruit juices	3.8	13.4	12.0	+216
Frozen fruit & juices	0.8	6.5	6.6	+725
Fresh fruits	137.5	112.9	114.8	−17
Dried fruits	5.7	4.3	n.a.	n.a.
Meats, all	125.3	144.2	144.0	+15
Poultry [2]	20.4	35.0	34.9	.....
Potatoes	128.0	101.0	102.0	−20
Sweet potatoes	21.3	7.2	8.5	−60

[1] Does not include potatoes, sweet potatoes, and dried beans and peas. [2] Chicken and turkey.

Poultry Used in Canning

Poultry canned or used in canning during the first quarter of this year totaled 51,397,000 pounds, an increase of 19 percent over the 43,250,000 pounds used during the corresponding period of 1952, according to a report by the Bureau of Agricultural Economics.

The quantities of poultry used in canning during each of the first three months of 1953 exceeded quantities used during the same months last year.

DEATH

Walter J. Kemp

Walter J. Kemp, 65, president of Kemp Bros. Packing Co., Inc., Frankfort, Ind., died April 24 at Kokomo, Ind.

He was the last of the three brothers who founded the Kemp firm, which is recognized as the originator of canned tomato juice.

Mr. Kemp was a member of the N.C.A. Board of Directors, having been elected to the Board at the 1953 Convention in Chicago.

FOOD REGULATION

Federal Court Decision on FDA Seizure

Because of the widespread industry interest in the problem of tomato fruit fly control, there is reproduced below the full text of a recent decision by the U. S. District Court for the Northern Division of Illinois, Eastern Division. The decision follows the first instance in which a tomato processor has contested a seizure action in which the libel charged adulteration based on the presence of fly eggs and larvae alone.

The action having been tried by the court without a jury, the decision takes the form of a series of Findings of Fact and Conclusions of Law. The Food and Drug Administration will have the opportunity to appeal the decision, if it so decides, to the Court of Appeals for the Seventh Circuit.

Tomato canners will find findings 6, 7, 8, 9, and 12 of principal interest.

Findings of Fact

1. THE . . . COMPANY, an Indiana corporation, shipped in interstate commerce . . . on or about October 9, 1951, an article of food consisting of 558 cases, each containing 24 cans of an article labeled in part: (can) "(Private Brand Name) Tomatoes Net Wt. 1 Lb. 3 Ozs."

2. The aforesaid article of food was placed in storage within the jurisdiction of this Court.

3. The undistributed portion of the aforesaid article of food, consisting of 253 cases, was seized by the United States of America, libelant, pursuant to 21 U.S.C. 334(a) while in said warehouse because of alleged adulteration of said article of food within the meaning of 21 U.S.C. 342 (a) (3) in that said article consisted in whole or in part of a filthy substance by reason of the presence therein of fly eggs and maggots.

4. Prior to seizure an inspector of the Food and Drug Administration collected samples of said article of food consisting of 48 cans of tomatoes, two cans being taken from each of twenty-four cases selected at random from various parts of the shipment. The samples contained the following four codes and no others: TOD 53, TOA 71, TOD 64, TOA 59, which said code numbers identify the canned tomatoes as different lots having been packed on different days during the packing season. This sample was analyzed by two Government chemists for fly eggs and maggots who testified as to the following results:

Later, after the case was at issue, the government applied for leave to, and did withdraw additional samples. Said samples were analyzed microscopically, and the findings as received in evidence and as appear in the sworn answers to Interrogatories, propounded by the claimant, as amended in Court, are as follows:

Code	Sub. No.	1	2	3	4	5	6
TOA 34	Dros. fly eggs..	0	2	2	4	3	0
	Maggots.....	1	0	0	0	0	0
TOA 36	Dros. fly eggs..	0	0	0	0	0	0
	Maggots.....	0	0	0	0	0	0
TOA 37	Dros. fly eggs..	0	0	0	1	0	0
	Maggots.....	0	0	0	0	0	0
TOA 39	Dros. fly eggs..	1	0	0	0	0	1
	Maggots.....	0	0	0	0	0	0
TOA 41	Dros. fly eggs..	0	1	0	0	0	0
	Maggots.....	0	0	1	0	0	0
TOA 73	Dros. fly eggs..	2	1	23	2	2	14
	Maggots.....	0	0	0	0	1	1
TOD 51	Dros. fly eggs..	1	0	0	0	4	1
	Maggots.....	0	0	0	1	0	0
TOD 59	Dros. fly eggs..	0	1	1	2	0	1
	Maggots.....	1	0	0	0	0	0
TOD 64	Dros. fly eggs..	5	0	0	17	5	2
	Maggots.....	0	0	0	0	0	0
TOD 86	Dros. fly eggs..	0	0	0	2	4	1
	Maggots.....	0	0	0	1	0	0
TOD 87	Dros. fly eggs..	0	3	0	2	0	1
	Maggots.....	0	0	1	0	1	0
TOD 88	Dros. fly eggs..	1	2	0	1	1	0
	Maggots.....	2	0	0	0	1	0
TOD 91	Dros. fly eggs..	1	2	0	1	1	0
	Maggots.....	2	0	0	0	1	0
TOA 33	Dros. fly eggs..	0					
	Maggots.....	0					
TOA 60	Dros. fly eggs..	0					
	Maggots....	0					
TOD 84	Dros. fly eggs..	0					
	Maggots.....	0					

5. In the course of the trial the government called attention to the fact that its analyses and findings pertaining to code No. TOA 59 were in error, and by stipulation of the parties in open court the correct findings on said code were read into the record, and the answer to the Interrogatories was amended on its face to show the corrected report of the analysis. A combination of the average count of the fly eggs in the samples analyzed, and as reported by the government in their answers to the Interrogatories, shows an average count on fly eggs to be 2.35 fly eggs in the 100 sample cans withdrawn and analyzed, and an average of .2 larvae per can on the 110 cans withdrawn and analyzed.

6. The fruit fly, or vinegar gnat, a member of the genus Drosophila, is a rapid breeder and frequently, and at certain times of the year, is present in large numbers in fields where tomatoes are grown. The fly is most active in the middle to latter part of the tomato growing season. It prefers to feed on fermenting or yeasty materials, but prefers to lay its eggs in the tissue of sound, cracked fruit. Tests have shown that the exposed flesh of sound, ripe tomatoes are preferred as a place for the fly to deposit its eggs over either the flesh of green tomatoes or tomatoes which have begun to decompose. The cracks in the tomatoes where the eggs are deposited may be either natural growth cracks or cracks caused by mechanical means. The flies deposit eggs, the eggs develop into larvae, the larvae into pupae, and the pupae into flies. The evidence showed that eggs are the stage in the life cycle of the insect that appear most frequently in the finished product. An occasional larva is to be found. No pupae nor flies were found in any samples of the seized product.

7. No known insecticides will completely eliminate the presence of the fruit fly in the field. It is, therefore, inevitable that during the period of the canning season tomatoes in which eggs have been deposited in the field will reach the cannery. No single pro-

Code TOD 53 Sub. No.	1	2	3	4	5	6	7	8	9	10	11	12	Av.
No. Drosophila fly eggs	2	5	34	0	1	0	1	3	15	0	28	0	7.4
Maggots, 2-4 mm.	0	4	2	0	0	0	0	0	2	0	0	1	

Code TOA 71 Sub. No.	13	14	15	16	17	18	19	20	21	22	23	24	Av.
No. Drosophila fly eggs	1	6	0	26	44	8	5	5	0	4	1	0	8.3
Maggots, 2-4 mm.	0	0	0	1	0	1	0	0	0	0	0	0	

Code TOD 64 Sub. No.	25	26	Average
No. Drosophila fly eggs	0	3	1.5
Maggots	0	0	

Code TOA 59 Sub. No.	28	29	30	Average
No. Drosophila fly eggs	1	1	0	0.7
Maggots	0	0	0	

cedure, or combination of procedures, in the process of canning tomatoes will completely eliminate and remove the presence of these fly eggs.

8. One government witness contended that the presence of fly eggs in canned tomatoes indicated the presence of tomato rot. This contention, however, was not sustained by other competent expert testimony. There was no evidence that any visible rot was present in any of the seized samples. The government contended that the presence of fly eggs and larvae in canned tomatoes was indicative of insanitary conditions in the cannery, and a failure on the part of those working on the canning line to trim out, sort, or otherwise eliminate defective fruit. A government expert witness, however, when handed a sound, ripe tomato was unable to tell whether or not it contained any fly eggs. The witness could not even tell whether or not fly eggs were present on the tomato after he had examined it with a hand magnifying glass. The weight of the testimony indicated that there is no correlation between the presence of fly eggs in canned whole tomatoes and tomato rot. It was brought out that a product could have a high mold count, which does indicate the presence of tomato rot, and at the same time contain none or very few fly eggs. The government did not contend that mold was present in the seized food.

It was also shown that fly egg counts, even within a given code, can vary widely. This is because one tomato which contained several eggs, which cannot be detected by the unaided eye, can, without carelessness on the part of the packer, get into the finished product, and this single tomato would thereby cause the can in which it was packed to have a much higher count than any other cans of that same code.

The method for determining the presence of fly eggs used by the analysts for both the government and for the claimant is the method reported in the Official Methods of Analysis of the Association of Official Agricultural Chemists, 7th Edition, 1950, page 727. This method calls for an examination with a magnification of about 10 diameters.

9. Government testimony showed that the Federal Food and Drug Administration would not recommend seizure of No. 2 canned tomatoes if the average fly egg count per can for a given code was 4 or less. It would, however, recommend seizure of a code if the average fly egg count per No. 2 can was 5 or more. It was further brought out that this tolerance of 4 had never been made known to the canning industry, and was considered by the Federal Food and Drug Administration as an "unannounced tolerance" or "working tolerance". The government stated that it recognized no working tolerance for the presence of maggots in canned tomatoes. There is no sound basis to differentiate between fly eggs and maggots, because in the nature of things, if fly eggs are present, they are going to hatch into maggots. For practical purposes, fly eggs and maggots are one and the same. It was further established that fly eggs in any number could be present in homogenized or viscolized tomato juice and not render said product subject to seizure.

10. The seized lot consisted of canned No. 2 whole tomatoes made up of 20 different codes, more or less, each code representing a different day's pack. The seizure was based on the results of the examination of 4 of said 20 codes, 2 of which were found to have fly eggs present in excess of an average of 5 per No. 2 can. Subsequent examinations by the government analysts revealed that 16 of the 20 codes involved were within the working tolerance established by the Federal Food and Drug Administration. Claimant's analyst, an eminently qualified microanalyst, did not find more than 5 fly eggs present in any single can of tomatoes.

11. Federal Food and Drug inspectors visited fifty-eight "suspected" tomato canneries in the states of Ohio and Indiana during the 1951 tomato canning season, and collected samples from each of said plants for the purpose of examining said samples to determine whether or not the products being canned in said canneries complied with the "working tolerances" of the Federal Food and Drug Administration. Claimant's cannery was not among those visited in this routine check.

One government inspector, however, did visit claimant's plant in 1951, and orally reported to claimant at the time of said visit that he found no objectionable conditions, and could make no recommendations as to how plant operations could be improved. The claimant has never been involved in any seizure involving adulteration of this product or insanitary conditions in or about his plant.

12. Drosophila fly eggs and maggots present in food for human consumption constitutes filth within the purview and meaning of the Federal Food, Drug and Cosmetic Act (chapter 21 U. S. C., Section 342 (a) (3)). The presence of a high number of said fly eggs or maggots, however, in a single can of whole tomatoes, when many cans of the same lot or code show none or a trifling amount of eggs and maggots, does not warrant and justify seizure and condemnation of the entire lot or code. The provisions of Chapter 21 U. S. C., Section 336, do not require the administrator to institute libel proceedings for minor violations of the chapter whenever the public interest will be served adequately by a suitable written notice or warning. In this case, no notice or warning, either oral or written, was made by the administrator upon the claimant. The fly eggs and maggot count, found in the samples analyzed, is certainly infinitesimal and inconsequential in quantity, and for the government to libel and seize food in such a case will only serve to prevent the carrying on of commercial canning of tomatoes, and destroy the canning industry. The officers of the Federal Food and Drug Administration should not, in their zeal to enforce the provisions of the Act, impose standards of performance that are unattainable or impractical. In proper instances the provisions outlined in Chapter 21 U. S. C., Section 336, giving appropriate notice and warning to the canner is available to the officers of the government.

Conclusions of Law

I

The claimant, THE . . . COMPANY, an Indiana corporation, is within the jurisdiction of this Court by voluntary appearance herein.

II

The subject matter of this action is within the jurisdiction of this Court.

III

The 253 cases each containing 24 cans of an article labeled in part, "(Private Brand Name) Tomatoes, Net Wt. 1 Lb. 3 Ozs.", being the subject of seizure in this proceeding, is not adulterated food within the meaning of the Federal Food, Drug and Cosmetic Act (21 U. S.C., 342 (a) (3)).

IV

Since the proofs and evidence show that none of the tomatoes involved in the seized lot contained substantial amounts of fly eggs and maggots, but that the majority of them contained none, and the balance contained them only in such infinitesimal and inconsequential quantities, which could not be eliminated by the selection of the best fruit available, and the exercise of proper care in the various steps of the canning operation; and since the findings of fly eggs and maggots in the seized samples averaged considerably less than the "working tolerance" established by the government, I find the issues for the claimant and against the libelant, and find that judgment should issue directing the United States Marshal for the Northern District of Illinois, Eastern Division, to release and deliver said 253 cases of No. 2 cans of tomatoes labeled "(Private Brand Name) Tomatoes" to the claimant, and that the said United States Marshal should pay the storage charges which have accrued subsequent to date of seizure; and that judgment should enter accordingly.

Enter.

JOHN P. BARNES,
Judge

Entered April 22, 1953.

SUPPLIES

Shipments of Glass Containers

Shipments of glass containers for food during the first quarter of 1953 exceeded the volume shipped during the same period of 1952, on the basis of reports by the Bureau of the Census, U. S. Department of Commerce.

Shipments of both wide-mouth and narrow-neck food containers were up about 17 percent.

	Jan. through March 1952	1953
	(quantities expressed in gross)	
Wide-mouth food (including fruit jars and jelly glasses)	6,536,465	7,626,103
Narrow-neck food	2,522,695	2,945,553

Forthcoming Meetings

May 5-6—Pennsylvania Canners Association, Sales Clinic, Pocono Manor, near Stroudsburg

May 24-27—Super Market Institute, 16th Annual Convention, Cleveland

June 14-15—Michigan Canners Association, Spring Meeting, Park Place Hotel, Traverse City

June 14-16—National-American Wholesale Grocers Association, Midyear Meeting, Chicago

June 14-18—National Association of Retail Grocers, U. S., Annual Meeting, Chicago

June 16-17—Maine Canners Association, Summer Meeting, Lakewood, near Skowhegan

June 23-24—Grocery Manufacturers of America, Inc., Midyear Meeting, The Greenbriar, White Sulphur Springs, W. Va.

July 9-10—National Kraut Packers Association, Annual Meeting, Catawba Cliffs Beach Club, Port Clinton, Ohio

July 15-24—Indiana Canners Association, Annual Mold Count School, Purdue University, Lafayette

July 29-August 7—New York State Canners and Freezers Association, Inc., 16th Annual Mold Count School, New York State Experiment Station, Geneva

October 15-17—Florida Canners Association, Annual Meeting, Casa Blanca Hotel, Miami Beach

November 2—Illinois Canners Association, Fall Meeting, Chicago

November 9-10—Wisconsin Canners Association, 49th Annual Convention, Schroeder Hotel, Milwaukee

November 9-10—Michigan Canners Association, Fall Meeting, Pantlind Hotel, Grand Rapids

November 9-11—Grocery Manufacturers of America, Inc., Annual Meeting, New York City

November 12-13—Iowa-Nebraska Canners Association, Annual Convention, Hotel Fort Des Moines, Des Moines

November 19-20—Indiana Canners Association, Annual Convention, French Lick Springs Hotel, French Lick Springs

November 23-24—Pennsylvania Canners Association, 39th Annual Convention, Penn Harris Hotel, Harrisburg

December 3-4—Tri-State Packers Association, Inc., 50th Annual Meeting

December 10-11—New York State Canners and Freezers Association, Inc., 68th Annual Convention

December 10-11—Ohio Canners Association, 46th Annual Convention, The Neil House, Columbus

January 18-21—Canadian Food Processors Association, Annual Convention, Alpine Inn, Ste. Marguerite, P.Q.

January 19-22—National-American Wholesale Grocers Association, Annual Convention, Ambassador Hotel, Atlantic City, N. J.

January 23-27—National Canners Association, 47th Annual Convention, together with National Food Brokers Association and Canning Machinery and Supplies Association, Atlantic City, N. J.

Spring Meeting of Board

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with President Eisenhower as one of his advisors, and was a member of the Joint Congressional Inaugural Committee in charge of arrangements. He is second ranking member of the House Committee on Armed services, which has jurisdiction over all matters pertaining to national defense.

Born in Melvin, Ill., he has lived there all his life and operates farmlands in the vicinity. Also he has served as president of the Commercial State Bank of Melvin and is a trustee of Illinois Wesleyan University. He served in the U. S. Navy during World War I and is a charter member of Melvin Post, American Legion, serving as post commander, county commander, and 17th District Commander.

The other guest speaker, Mr. Good, has guided the U. S. Chamber of Commerce in its promotion of Business-Education and Education-Business Day programs all over the country. His efforts are to get businessmen to study the desires, needs, wishes, attitudes and interests of the people with whom business men associate, and in turn to give the latter a better understanding of the American business system. His programs are premised on the conviction that the businessman has a responsibility to correct the lack of understanding of the profit system and free enterprise that has grown during 20 years of political rule characterized by an unfriendliness toward business. He will show what various segments of the public think of business and industry, will demonstrate certain areas of lack of understanding, and, at the same time, produce tested samples of successful correction of this situation by certain leading business and industry organizations.

Mr. Good was graduated from Friends University, Wichita, Kans., was awarded his masters degree at Columbia University and did additional work at the University of Southern California. In June, 1950, he received an honorary doctors degree from Friends University. For many years he was an administrator in the Wichita school system, later becoming general manager of the Wichita Chamber of Commerce, which position he left to handle the interrelated problems affecting American business and education for the U. S. Chamber. A major part of his time has been spent spearheading the Chamber's promotion of B-E Days throughout the country, and Mr. Good has worked and counseled with numerous business organizations in the planning and execution of this program.

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